

CHARLES D. HANER,	)	
	)	
Movant,	)	
	)	
vs.	)	Case No. 4:11CV1337 CDP
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	


Movant brought a motion to vacate, set aside or correct sentence by a person in federal custody, 28 U.S.C. § 2255, alleging ineffective assistance of counsel. Because one of the grounds for the motion is counsel's failure to file a notice of appeal despite allegedly being instructed to do so by movant, an evidentiary hearing is required on this issue. *See Holloway v. U.S.*, 960 F.2d 1348, 1357 (8th Cir. 1992). Furthermore, as a hearing is required in this matter, appointment of counsel is required by Rule 8(c), Rules Governing § 2255 proceedings.

**IT IS HEREBY ORDERED** that movant's motion to appoint counsel [#2] is granted, and **Gregory N. Smith, Margulis and Grant, 11 S. Meramec Ave., Suite 1330, Clayton, Missouri 63105, telephone number 314-721-6677**, is appointed to represent movant in this matter pursuant to 18 U.S.C. § 3006A. If requested, the Clerk of the Court shall provide movant's newly-appointed counsel

with a complete copy of the court file at no cost including any sealed documents required by counsel in the related case number 4:09CR216 CDP.

**IT IS FURTHER ORDERED** that movant's motion for evidentiary hearing [#3] is granted and will be set after the newly appointed counsel has had an opportunity to consult with Mr. Haner.

**IT IS FURTHER ORDERED** that this matter is set for a telephone status conference with counsel only **Friday, September 23, 2011 at 11:00 a.m.** The Court will initiate the call.

  
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CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

Dated this 16th day of September, 2011.